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December 14, 2012

EX PARTE NOTICE

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Connect America Fund, WC Docket No. 10-90
A National Broadband Plan for Our Future, GN Docket No. 09-51
Establishing Just and Reasonable Rates for Local Exchange Carriers,
WC Docket No. 07-135
High-Cost Universal Service Support, WC Docket No. 05-337
Developing a Unified Intercarrier Compensation Regime,
CC Docket No. 01-92
Federal-State Joint Board on Universal Service, CC Docket No. 96-45
Lifeline and Link-Up, WC Docket No. 03-109**

Dear Ms. Dortch:

On December 13, 2012, the undersigned from COMPTTEL and Joe Gillan of Gillan Associates and Dave Malfara of ETC Group, LLC, both on behalf of COMPTTEL, had a meeting with Michael Steffen of the Chairman's Office, Sean Lev, the Commission's General Counsel, and Rebekah Goodheart of the Wireline Competition Bureau.

COMPTTEL is looking forward to working with the Commission as it actively oversees the details of the transition in technology and we are hopeful that the task force will facilitate the industry moving forward to a packet-based PSTN. In the meeting we stressed that, in order to be successful, the Commission should start by pronouncing that the competitive provisions of the Act apply and will be enforced regardless of the technology. The focus should be updating the competitive rules to reflect the technological changes. We noted that there is nothing about this change in technology that changes the market power of AT&T and Verizon. In order to ensure that, while the technology moves forward, the market doesn't move backward to a time when consumers lacked competitive choice, it is important for competitive rights in two critical respects be preserved for the next generation facilities: (1) interconnection and (2) last mile access.

Regardless of technology, basic interconnection rules are vital for a functioning competitive communications market. Without interconnection, competition cannot exist. We explained that COMPTTEL members need interconnection, pursuant to Section 251 and 252 of the Act, for managed VoIP services (e.g., SIP interconnection) which, as AT&T and Verizon have acknowledged, “do not transverse the public Internet.”¹ In the meeting we referred to the diagram in a previous presentation we made to the Commission staff to discuss the distinction between managed VoIP services (that do *not* require Internet access) from over-the-top VoIP services (that require Internet access).² We also discussed why this category of VoIP services are telecommunications services. In doing so, we referred to additional diagrams of the same presentation to explain examples of no net protocol conversion.³ We also mentioned that there are various economic efficiencies associated with SIP interconnection.

Since the Commission’s copper retirement and unbundling rules were adopted, the American Recovery and Reinvestment Act of 2009 was enacted. This Act called on the Commission to provide “a detailed strategy for achieving affordability of [broadband] service and maximum utilization of broadband infrastructure and service by the public.”⁴ The Commission’s existing rules that put competitors access to last mile loops in jeopardy, by allowing ILECs to unilaterally decide to retire copper loops and deny access to packetized fiber loops, is inconsistent with this objective.

It is important to note that the entities significantly harmed by competitors being denied access to last mile loops include small to medium size businesses, the entities that are being looked toward to help grow the economy and create jobs. COMPTTEL members have been able to offer these businesses Ethernet over Copper (“EoC”) service offerings that grow with their business. If competitors lose access to the UNE loop, by allowing the ILECs to decommission the copper loop with no alternative available, a substantial number of businesses will lose their existing broadband service and be left with no choice in service provider.⁵ Even in a market the ILEC claimed to be competitive, the Commission found that “reasonably efficient competitors face barriers to entry that are likely to make entry into these markets uneconomic without access to those UNEs.”⁶ As Overture, a developer and manufacturer of Carrier Ethernet products for

¹ Letter of Karen Reidy, COMPTTEL, to Marlene Dortch, FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-107, GN Docket No. 09-51, CC Docket Nos. 01-92 and 96-45, Attachment pp. 3-4, filed Aug. 17, 2012; *See also*, <http://newscenter.verizon.com/press-releases/verizon/2010/fios-digital-voice-heres.html> and <http://www.att.com/u-verse/explore/home-alarm.jsp>.

² *Id.*, attachment at p. 6.

³ *Id.*, attachment at pp. 15-16.

⁴ Pub. L. 111-5 Sec. 6001(k)(2)(B).

⁵ *See* Letter of Thomas Jones to Marlene Dortch, WC Docket No. 10-90 et al, p. 6, filed Dec. 4, 2012.

ILECs and CLECs, stated recently, “a premature retirement of unbundled copper loops would have a devastating impact on the availability of advanced IP services for a large portion of the U.S. population.”⁷

The Commission also has found that section 251(c)(3) UNE regulations remain necessary to ensure that the ILEC’s charges, practices, classifications, or regulations are just and reasonable and are not unjustly or unreasonably discriminatory.⁸ The competitive impact of the availability of the copper loop on prices is demonstrated by a statement of a CEO of a consulting firm that negotiates telecommunications services on behalf of his clients: “EoC product is forcing the cost of fiber connections to come down...I get a quote for fiber in a building and when EoC becomes available I go back and get a new quote letting them know EOC is available. I can get a fiber quote to drop in half. EoC is really causing fiber providers to provide competitive prices.”⁹

It is critical that the outcome of the transition not be that consumers are forced to a particular provider and stuck with whatever service, at whatever price, that provider offers. Rather consumers should obtain the benefit of innovation while being ensured competitive choices and accurate information about their options.

Please do not hesitate to contact me if you have any questions regarding this submission.

Respectfully submitted,

/s/ Karen Reidy

Karen Reidy

cc (via email): Rebekah Goodheart
Sean Lev
Michael Steffen

⁶ See e.g., Memorandum Opinion and Order, *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, WC Docket No. 09-135, FCC 10-113, ¶ 93 (2010)(Qwest UNE Forbearance Order).

⁷ Letter of Jeff Reedy, Co-founder and Chief Strategy Officer, Overture, to Marlene Dortch, Secretary, FCC, GN Docket Nos. 09-47, 09-51, 09-137, and RM-11358, p. 5, dated Dec. 7, 2012.

⁸ Qwest UNE Forbearance Order at ¶ 95.

⁹ Sean Buckley, “Finding New Gold in Copper,” *FierceTelecom*, p. 7. September 2012 (emphasis added).